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7 United States District Court
8 Eastern District of Washington
9 (Hon. Wm. Fremming Nielsen)

10 United States of America,
11 Plaintiff,

12 v.

13 Bryon Cody Tellier,
14 Defendant(s).

2:20-CR-00053-WFN-2

Sentencing Memorandum and Motion
for Downward Variance

I. Introduction

Bryon Cody Tellier, through counsel, Zachary L. Ayers, submits the following sentencing memorandum and motion for downward variance. Mr. Tellier respectfully requests the Court to sentence him to time served in the Marshal's custody, a 3-year term of supervised release, no fine, and a \$100 mandatory special penalty assessment.

II. 18 U.S.C. 3553(a)

18 U.S.C. §3553 sets out factors that are helpful to the Court when determining what sentence is "sufficient but not greater than necessary" to comply with the purposes of the statute. The District Court may not presume that the guideline range is reasonable, nor should the guideline factors be given any more or less weight than any other. *United States v. Carty*, 520 F.3d 984, 991 (9th Cir. 2008) *en banc*, citing *Rita v. United States*, 127 S.Ct. 2456 (2007), *Gall v. United States*, 127 S.Ct. 2833 (2007), and *Kimbrough v. United States*, 128 S.Ct. 558 (2007). The guidelines are only one factor to be taken into account in arriving at an appropriate sentence. *Id.*

Nature of the Offense

This offense is serious. Mr. Tellier understands that the offense he committed affects the public at large. His actions aided the attempt to inject counterfeit money into the community. It allowed Mr. Tellier and his co-defendants to attempt to purchase items they could not afford.

The History and Characteristics of the Defendant

Mr. Tellier has lived in western Washington most of his life. This is the first Mr.

1 Tellier has had any trouble in Eastern Washington. He has never met his father (PSIR
2 ¶134). During his childhood, he was physically abused by his stepfather. (PSIR ¶136).
3
4 Mr. Tellier does have a good relationship with his mother's current husband. (PSIR
5 ¶137).

6 Mr. Tellier's criminal history primarily involves driving under the influence and
7
8 other driving convictions. Although he has a forgery conviction, his history is non-
9 violent.

10 **To Promote Respect for the Law**

11 A sentence of time served promotes respect for the law. By the time of
12 sentencing, Mr. Tellier will have been incarcerated more than seven months. During
13 his incarceration, Mr. Tellier has worked in the kitchen and has not received any
14 infractions while in jail. This is the longest he has been incarcerated.

15 **To Afford Adequate Deterrence to Criminal Conduct**

16 A sentence of time served will deter criminal conduct. Mr. Tellier will have
17 served 7 to 8 months in jail during the pendency of this case. The anticipated
18 supervised release conditions will help to deter future criminal conduct.

19 The suggested special conditions of supervised release include a mental health
20 evaluation and direct him to follow any treatment recommendations. This has not
21 been recommended in any of Mr. Tellier's previous cases. Moreover, his supervised
22 release conditions will require him to avoid contact with convicted persons.

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1 **Protection of the Public**

2 A sentence of time served with 3 years of supervised release will satisfy this
3
4 factor as well. The recommended special conditions of supervision are more stringent
5 than any case Mr. Tellier had in Washington State Courts. He will have to obtain
6 gainful employment, avoid gambling, and not possess or use controlled substances.
7

8 **III. Motion for Downward Variance**

9 Mr. Tellier seeks a downward variance from the 18-24 months range of
10 imprisonment to time served. Mr. Tellier needs drug and mental health evaluations and
11 treatment. Additional prison time will not change the underlying issues. Supervised
12 release will accomplish the Court's goals.
13

14 With a mental health evaluation and treatment, Mr. Tellier will be able to
15 overcome many of the challenges he faces mentally, physically, and emotionally. It
16 should also be noted his mother believes he may have potential Post Traumatic Stress
17 Disorder issues from the physical abuse he received as a child.
18

19 **IV. Conclusion**

20
21 The Court should impose a sentence "sufficient but not greater than necessary."
22 Mr. Tellier respectfully requests the Court to sentence him to time served, a term of 3-
23 years of supervised release, no fine, and \$100 special mandatory penalty assessment.
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1 Dated this 30th day of November 2020.

2 Respectfully Submitted,

3 s/ Zachary L. Ayers

4 WSBA # 46496

5 Attorney for Bryon Tellier

6 Ayers Law Firm, P.L.L.C.

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11 **CERTIFICATE OF SERVICE**

12 I hereby certify that on November 30, 2020, I electronically filed the foregoing
13 with the Clerk of the Court using the CM/ECF System which will send notification of
14 such filing to the following: Assistant United States Attorney Patrick Cashman.

15
16
17 s/ Zachary L. Ayers

18 WSBA # 46496

19 Attorney for Bryon Tellier

20 Ayers Law Firm, P.L.L.C.

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